

**RULES
OF
THE TENNESSEE BOARD OF OSTEOPATHIC EXAMINATION
DIVISION OF HEALTH RELATED BOARDS**

**CHAPTER 1050-4-2
GENERAL RULES GOVERNING OSTEOPATHIC MEDICAL LIMITED LIABILITY COMPANIES**

TABLE OF CONTENTS

1050-4-2-.01	Purpose	1050-4-2-.05	Persons Permitted to be Managers or Governors
1050-4-2-.02	Definitions	1050-4-2-.06	Dissolution
1050-4-2-.03	Coverage and Scope of Rules	1050-4-2-.07	Foreign M.P.L.L.C.'s
1050-4-2-.04	Membership in M.P.L.L.C.'s	1050-4-2-.08	Delivery of Articles

1050-4-2-.01 PURPOSE.

- (1) These rules are adopted by the Tennessee Board of Osteopathic Examination ("Board") to implement the Tennessee Professional Limited Liability Companies Act. T.C.A. §§48-248-101, *et seq.* (the "Act"). The Professional Act, under certain circumstances, allows one or more physicians who are duly licensed by the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners to practice medicine in the State of Tennessee to provide professional medical services in a medical professional limited liability company ("M.P.L.L.C.") located and doing business in the State of Tennessee.
- (2) These rules shall not be construed to allow the limited liability company structure to interfere with the independent professional judgment of a physician in the rendering of professional services without a physician-directed due process procedure.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-248-103, 48-248-104, 48-248-603, and 63-9-101. **Administrative History:** Original rule filed October 14, 1997; effective December 28, 1997.

1050-4-2-.02 DEFINITIONS. The following definitions shall apply to terms and acronyms as they appear in these rules, unless the context clearly requires otherwise:

- (1) The Act - The Tennessee Professional Limited Liability Companies Act as found at T.C.A. Title 48, Chapter 248, Parts 1 through 6.
- (2) Attorney General and Reporter - The Office of the Attorney General for the State of Tennessee.
- (3) Board - Tennessee Board of Osteopathic Examination. For the purpose of these rules, all correspondence and notices required to be made by a person to the Board under these rules shall be made to the Tennessee Board of Osteopathic Examination, Attention: Board Administrator, First Floor, Cordell Hull Building, 425 5th Avenue North, Nashville, Tennessee 37247-1010 or any other place as directed, from time to time, by the Board.
- (4) Disqualified Person - Any person who is not a physician licensed to practice by the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners.
- (5) Disqualifying Event - Any event set forth at T.C.A. §48-216-101.
- (6) Licensing Authority - The Tennessee Board of Osteopathic Examination or Tennessee Board of Medical Examiners or their equivalent in another state.
- (7) Medical Professional Limited Liability Company or M.P.L.L.C. - A company formed for the purpose of rendering a medical service or medical services and whose members consist of a physician or physicians licensed to practice medicine in Tennessee.
- (8) Medical Professional Service or Medical Service - An activity that falls within the definition of the "practice of medicine" or the "practice of osteopathic medicine" as set forth in T.C.A. §63-6-204 (a) (1) or §63-9-106 (a).

- (9) Medical Professional Corporation or M.P.C. - A "for profit" corporation formed pursuant to T.C.A. §§48-101-601, et seq. that is incorporated for the purpose of rendering a medical service or medical services and whose shareholders consist of a physician or physicians licensed by the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners.
- (10) Person - A natural person, general partnership in which all partners are qualified persons, or an M.P.C. or M.P.L.L.C.
- (11) Physician - An individual person holding a license in good standing to practice medicine issued by either the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners. See also "Qualified Person".
- (12) Practice of Medicine - The "practice of medicine" or the "practice of osteopathic medicine" as set forth in T.C.A. §§63-6-204(a) and 63-9-106(a). See also "Medical Professional Service" or "Medical Service" or "Professional Service".
- (13) Professional Corporation or P.C. - Any corporation set up pursuant to T.C.A. §§48-101-601, et seq.
- (14) Professional Service - A medical or osteopathic medical service.
- (15) Qualified Person - A natural person who holds full licensure as a physician licensed to practice medicine in Tennessee, a general partnership in which all partners are licensed Tennessee physicians, an M.P.C. in which all shareholders are licensed to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by physicians licensed in Tennessee, or an M.P.L.L.C. in which all members are licensed to practice medicine in Tennessee or composed of entities which are directly or indirectly owned by physicians licensed in Tennessee.
- (16) Shall or Must - Where these words are used, compliance is mandatory.
- (17) Should or May - Where these words are used, it means a suggestion or recommendation.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-101-601, et seq., 48-216-101, 48-248-101, et seq., and 63-9-101. **Administrative History:** Original rule filed October 14, 1997; effective December 28, 1997.

1050-4-2-.03 COVERAGE AND SCOPE OF RULES.

- (1) These rules shall affect only M.P.L.L.C.'s and no other type of L.L.C. However, nothing in these rules shall, in any way, be construed to affect any other rule, regulation, or ethical consideration applicable to physicians.
- (2) These rules shall apply only to those M.P.L.L.C.'s in which each member is a qualified person. Consequently, these rules shall not be construed to permit medical doctors who, although licensed by a licensing authority in another jurisdiction, are not licensed by the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners to be members of a Tennessee M.P.L.L.C.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-248-104, 48-248-202, 48-248-401, 48-248-603, and 63-9-101. **Administrative History:** Original rule filed October 14, 1997; effective December 28, 1997.

1050-4-2-.04 MEMBERSHIP IN M.P.L.L.C.'S.

- (1) Only qualified persons shall be members of a foreign or domestic M.P.L.L.C. doing business in Tennessee. This rule specifically, prohibits the following persons from being members of a foreign or domestic M.P.L.L.C.
 - (a) Domestic or foreign general partnerships unless all partners are licensed to practice medicine by the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners:
 - (b) Professional corporations unless all shareholders are physicians licensed by the Tennessee Board of Osteopathic Examination or the Tennessee Board of Medical Examiners,

- (c) Foreign or domestic M.P.L.L.C.'s unless all members are qualified persons.
- (2) A physician shall be deemed a disqualified member upon the occurrence of any disqualifying event and the provisions of T.C.A. §48-248-403 shall then apply. Any member which is an entity which is directly or indirectly owned in whole or in part by such disqualified person shall in turn be considered a disqualified person. If a disqualifying event occurs, the M.P.L.L.C. shall notify the Board within thirty (30) days.
- (3) Upon a physician becoming a disqualified person, that physician and/or the entity in which that physician is directly or indirectly an owner or employee shall immediately sever all professional employment and professional relationships with, and financial interests in the M.P.L.L.C. The M.P.L.L.C. shall immediately sever all professional employment and professional relationships with said disqualified person or entity. A disqualified member may, however, be entitled to receive any distribution, compensation, benefits, or other consideration to which a member may be entitled.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-216-101, 48-248-202, 48-248-401, 48-248-403, 48-248-603, and 63-9-101. **Administrative History:** Original rule filed October 14, 1997; effective December 28, 1997.

1050-4-2-.05 PERSONS PERMITTED TO BE MANAGERS OR GOVERNORS.

- (1) Any person serving as a manager of a foreign or domestic M.P.L.L.C. must be qualified persons with respect to the M.P.L.L.C. except the following:
 - (a) Secretary
 - (b) Treasurer
- (2) All persons serving on the board of governors of a foreign or domestic M.P.L.L.C. must be qualified persons.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-248-404, 48-248-603, and 63-9-101. **Administrative History:** Original rule filed October 14, 1997; effective December 28, 1997.

1050-4-2-.06 DISSOLUTION.

- (1) The procedure that the Board shall follow to notify the attorney general than an M.P.L.L.C. has violated or is violating any provision of Title 48 Chapter 248 shall be as follows:
 - (a) Service of a written notice of violation by the Board on the registered agent of the M.P.L.L.C. or the Secretary of State if one of the events described in T.C.A. §48-208-104 occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
 - (c) The notice of violation shall state that the M.P.L.L.C. must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the M.P.L.L.C. is in violation of the Act or these rules, the attorney general will be notified and judicial dissolution proceedings may be instituted pursuant to T.C.A. §§48-245-91, *et seq.*

- (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, but that the M.P.L.L.C., through its agent(s), shall appear before the Board at the time, date, and place as set by the Board and show cause why the Board should not notify the attorney general and reporter that the M.P.L.L.C. is in violation of the Act or these rules. The Board shall enter an order which states with reasonable particularity the facts describing each violation and the statutory or rule reference of each violation.
 - (f) If, after the proceeding described in Rule 1050-4-2-.06 (1) (d), the Board finds that an M.P.L.L.C. did violate any provision of Title 48, Chapter 248 or these rules, and failed to correct said violation or demonstrate to the Board's satisfaction that the violation did not occur, the Board shall certify to the attorney general and reporter that it has met all requirements of *T.C.A. §48-248-409 (1)-(3)*.
- (2) These rules do not terminate or interfere with the Secretary of State's authority pursuant to *T.C.A. §48-248-409*.

Authority: *T.C.A. §§4-5-202, 4-5-204, 48-208-104, 48-248-409, 48-248-603, and 63-9-101. Administrative History: Original rule filed October 14, 1997; effective December 28, 1997.*

1050-4-2-.07 FOREIGN M.P.L.L.C.'S.

- (1) Foreign medical professional limited liability companies are prohibited from conducting business in Tennessee unless all members meet the criteria of Rule 1050-4-2-.04.
- (2) The procedures for notifying the Secretary of State that a foreign M.P.L.L.C. has violated the provisions of the Act or rules promulgated pursuant thereto are as follows:
 - (a) There shall be service of a notice of violation by the Board on the registered agent of the M.P.L.L.C. or the secretary of state if one of the events described in *T.C.A. §48-208-104* occurs.
 - (b) The notice of violation shall state with reasonable specificity the nature of the alleged violation(s).
 - (c) The notice of violation shall state that the M.P.L.L.C. must, within sixty (60) days after service of the notice of violation, correct each alleged violation or show to the Board's satisfaction that the alleged violation(s) did not occur.
 - (d) The notice of violation shall state that, if the Board finds that the M.P.L.L.C. is in violation of the Act or these rules, the Secretary of State will be notified and administrative revocation proceedings may be instituted pursuant to *T.C.A. §48-248-503*.
 - (e) The notice of violation shall state that proceedings pursuant to this section shall not be conducted in accordance with the contested case provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5 but that the foreign M.P.L.L.C., through its agent(s), shall appear before the Board at a time, date and place as set by the Board and show cause why the Board should not notify the Secretary of State that the M.P.L.L.C. is in violation of the Act or these rules. The Board shall enter an order stating with reasonable particularity the facts describing said violations and the statutory and rule reference of each violation.

- (f) If, after the proceeding described in Rule 1050-4-2-.07(2)(d), the Board finds that a foreign M.P.L.L.C. did violate any provision of Title 48, Chapter 248 or these rules the Board shall certify to the Secretary of State that it has met all requirements of T.C.A. §§48-248-503, 48-248-409(1)-(3).

Authority: T.C.A. §§4-5-202, 4-5-204, 48-208-104, 48-248-409, 48-248-503, 48-248-603, and 63-9-101.

Administrative History: Original rule filed October 14, 1997; effective December 28, 1997.

1050-4-2-.08 DELIVERY OF ARTICLES.

- (1) Each foreign or domestic M.P.L.L.C. shall file an annual statement of qualification with only the Secretary of State setting forth the information required by T.C.A. §48-248-602(a) as well as the Tennessee osteopathic or medical license number and expiration date of the license of each person rendering professional services within an M.P.L.L.C.

Authority: T.C.A. §§4-5-202, 4-5-204, 48-248-601, 48-248-602, 48-248-603, and 63-9-101. **Administrative**

History: Original rule filed October 14, 1997; effective December 28, 1997.